

establishes that the delay in responding was unintentional.

(f) If the Director denies a petition, the applicant may request reconsideration, if the applicant:

(1) Files the request within two months of the date of issuance of the decision denying the petition; and

(2) Pays a second petition fee under § 2.6.

[64 FR 48921, Sept. 8, 1999, as amended at 68 FR 55764, Sept. 26, 2003; 73 FR 67769, Nov. 17, 2008]

§ 2.67 Suspension of action by the Patent and Trademark Office.

Action by the Patent and Trademark Office may be suspended for a reasonable time for good and sufficient cause. The fact that a proceeding is pending before the Patent and Trademark Office or a court which is relevant to the issue of registrability of the applicant's mark, or the fact that the basis for registration is, under the provisions of section 44(e) of the Act, registration of the mark in a foreign country and the foreign application is still pending, will be considered *prima facie* good and sufficient cause. An applicant's request for a suspension of action under this section filed within the 6-month response period (see § 2.62) may be considered responsive to the previous Office action. The first suspension is within the discretion of the Examiner of Trademarks and any subsequent suspension must be approved by the Director.

[37 FR 3898, Feb. 24, 1972]

§ 2.68 Express abandonment (withdrawal) of application.

(a) *Written document required.* An applicant may expressly abandon an application by filing a written request for abandonment or withdrawal of the application, signed by the applicant, someone with legal authority to bind the applicant (*e.g.*, a corporate officer or general partner of a partnership), or a practitioner qualified to practice under § 11.14 of this chapter, in accordance with the requirements of § 2.193(e)(2). A request for abandonment or withdrawal may not subsequently be withdrawn.

(b) *Rights in the mark not affected.* Except as provided in § 2.135, the fact that

an application has been expressly abandoned shall not affect any rights that the applicant may have in the mark set forth in the abandoned application in any proceeding before the Office.

[80 FR 2311, Jan. 16, 2015]

§ 2.69 Compliance with other laws.

When the sale or transportation of any product for which registration of a trademark is sought is regulated under an Act of Congress, the Patent and Trademark Office may make appropriate inquiry as to compliance with such Act for the sole purpose of determining lawfulness of the commerce recited in the application.

[54 FR 37592, Sept. 11, 1989]

AMENDMENT OF APPLICATION

§ 2.71 Amendments to correct informalities.

The applicant may amend the application during the course of examination, when required by the Office or for other reasons.

(a) The applicant may amend the application to clarify or limit, but not to broaden, the identification of goods and/or services.

(b)(1) If the declaration or verification of an application under § 2.33 is unsigned or signed by the wrong party, the applicant may submit a substitute verification or declaration under § 2.20.

(2) If the declaration or verification of a statement of use under § 2.88, or a request for extension of time to file a statement of use under § 2.89, is unsigned or signed by the wrong party, the applicant must submit a substitute verification before the expiration of the statutory deadline for filing the statement of use.

(c) The applicant may amend the dates of use, provided that the applicant supports the amendment with an affidavit or declaration under § 2.20, except that the following amendments are not permitted:

(1) In an application under section 1(a) of the Act, the applicant may not amend the application to specify a date of use that is subsequent to the filing date of the application;

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(2) In an application under section 1(b) of the Act, after filing a statement of use under § 2.88, the applicant may not amend the statement of use to specify a date of use that is subsequent to the expiration of the deadline for filing the statement of use.

(d) The applicant may amend the application to correct the name of the applicant, if there is a mistake in the manner in which the name of the applicant is set out in the application. The amendment must be supported by an affidavit or declaration under § 2.20, signed by the applicant. However, the application cannot be amended to set forth a different entity as the applicant. An application filed in the name of an entity that did not own the mark as of the filing date of the application is void.

[64 FR 48922, Sept. 8, 1999]

EFFECTIVE DATE NOTE: At 80 FR 33184, June 11, 2015, § 2.71 was amended by revising paragraphs (a), (b), (c) introductory text, and (d) and adding paragraph (e), effective July 11, 2015. For the convenience of the user, the added and revised text is set forth as follows:

§ 2.71 Amendments to correct informalities.

* * * * *

(a) The applicant may amend the application to clarify or limit, but not to broaden, the identification of goods and/or services or the description of the nature of the collective membership organization.

(b)(1) If the verified statement in an application under § 2.33 is unsigned or signed by the wrong party, the applicant may submit a substitute verification.

(2) If the verified statement in a statement of use under § 2.88, or a request for extension of time to file a statement of use under § 2.89, is unsigned or signed by the wrong party, the applicant must submit a substitute verification before the expiration of the statutory deadline for filing the statement of use.

(c) The applicant may amend the dates of use, provided that the amendment is verified, except that the following amendments are *not* permitted:

* * * * *

(d) The applicant may amend the application to correct the name of the applicant, if there is a mistake in the manner in which the name of the applicant is set out in the application. The amendment must be verified. However, the application cannot be

amended to set forth a different entity as the applicant. An application filed in the name of an entity that did not own the mark as of the filing date of the application is void.

(e) An amendment that would materially alter the certification statement specified in § 2.45(a)(4)(i)(A) or (a)(4)(ii)(A) will not be permitted.

§ 2.72 Amendments to description or drawing of the mark.

(a) In an application based on use in commerce under section 1(a) of the Act, the applicant may amend the description or drawing of the mark only if:

(1) The specimens originally filed, or substitute specimens filed under § 2.59(a), support the proposed amendment; and

(2) The proposed amendment does not materially alter the mark. The Office will determine whether a proposed amendment materially alters a mark by comparing the proposed amendment with the description or drawing of the mark filed with the original application.

(b) In an application based on a bona fide intention to use a mark in commerce under section 1(b) of the Act, the applicant may amend the description or drawing of the mark only if:

(1) The specimens filed with an amendment to allege use or statement of use, or substitute specimens filed under § 2.59(b), support the proposed amendment; and

(2) The proposed amendment does not materially alter the mark. The Office will determine whether a proposed amendment materially alters a mark by comparing the proposed amendment with the description or drawing of the mark filed with the original application.

(c) In an application based on a claim of priority under section 44(d) of the Act, or on a mark duly registered in the country of origin of the foreign applicant under section 44(e) of the Act, the applicant may amend the description or drawing of the mark only if:

(1) The description or drawing of the mark in the foreign registration certificate supports the amendment; and

(2) The proposed amendment does not materially alter the mark. The Office will determine whether a proposed amendment materially alters a mark